

MONTANA LEGISLATIVE HISTORY

Chapter 535 1977

Bill H 650 S _____ Original bill & history C

H. Committee on Highways & Transportation

Hearing Date(s) Feb 15 ✓ C

Feb 22 ✓ C

_____ C

_____ C

Date Out Feb 22 ✓ C

S. Committee on Highways & Transportation

Hearing Date(s) Mar 15 ✓ C

Mar 17 ✓ C

_____ C

_____ C

Mar 24 ✓ C

Did this bill originate in an interim committee? Yes No

Committee _____

Report _____

1 House BILL NO. 650
2 INTRODUCED BY Sully Propola
3

4 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTION
5 53-118, R.C.M. 1947, TO PROVIDE FOR REGULATION OF MOTOR
6 VEHICLE AND TRAILER DEALERS; DEFINING THE ACQUISITION AND
7 USE OF DEALER LICENSE PLATES."
8

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 Section 1. Section 53-118, R.C.M. 1947, is amended to
11 read as follows:

12 "53-118. Application for dealer's license. (1) Every
13 person, firm, corporation, or association who, for
14 commission or profit, engages in the business of buying,
15 selling, exchanging or acting as a broker of new motor
16 vehicles, used motor vehicles, trailers, (except trailers
17 having an unladen weight of less than five hundred (500)
18 pounds, semitrailers or special mobile equipment as defined
19 in section 53-642 and qualifies under subparagraph (f) of
20 this section, shall cause to be filed, by mail or otherwise,
21 in the office of the registrar of motor vehicles, a verified
22 application for licensing as a dealer on a blank to be
23 furnished by the registrar of motor vehicles for that
24 purpose, and containing the information therein required.
25 The application and all of the information therein contained

1 shall be verified by the Montana highway patrol. Each
2 application must be accompanied by the license fee
3 hereinafter named. Dealer's license must be renewed and paid
4 for annually, and an application for relicensing must be
5 filed not later than January first of each year. To qualify
6 for licensing and the issuance and use of "D," "UD," "DTR,"
7 or "MCD" plates, as hereinafter provided, the applicant must
8 furnish the following information and qualify under the
9 following provisions:

10 ~~(a) The name under which the business is conducted;~~
11 ~~(b) Location of premises (street, address, city,~~
12 ~~county and state) where records are kept, sales are made and~~
13 ~~stock of motor vehicles displayed;~~
14 ~~(c) Name and address of all owners or persons having~~
15 ~~an interest in the business, provided, however, that in the~~
16 ~~case of a corporation, the names and addresses of the~~
17 ~~president and secretary thereof will be sufficient;~~
18 ~~(d) Name and make of all vehicles handled, if factory~~
19 ~~franchised or selling under a written agreement with a~~
20 ~~manufacturer, importer or distributor;~~
21 ~~(e) Whether or not used vehicles are handled~~
22 ~~exclusively;~~
23 ~~(f) A certificate to the effect that the applicant is~~
24 ~~a bona fide dealer in motor vehicles, trailers, semitrailers~~
25 ~~or special mobile equipment, and that the applicant is a~~

INTRODUCED BILL

1 ~~Dealer in new motor vehicles, is recognized by a~~
 2 ~~manufacturer, importer or distributor as a dealer in~~
 3 ~~particular makes of new motor vehicles.~~

4 ~~(g) Other information required by the registrar to~~
 5 ~~efficiently administer this law.~~

6 ~~(a) To qualify as a new motor vehicle dealer and for~~
 7 ~~the use of "D" plates, the applicant must:~~

8 ~~(i) state the name under which the business is to be~~
 9 ~~conducted and the location of the premises (street address,~~
 10 ~~city, county, and state) where records are kept, sales are~~
 11 ~~made, and stock of motor vehicles is displayed;~~

12 ~~(ii) state the name and address of all owners or~~
 13 ~~persons having an interest in the business, provided that in~~
 14 ~~the case of a corporation, the names and addresses of the~~
 15 ~~president and secretary thereof are sufficient;~~

16 ~~(iii) state the name and make of all motor vehicles~~
 17 ~~handled and the name and address of the manufacturer,~~
 18 ~~importer, or distributor with whom the applicant has a~~
 19 ~~written new motor vehicle franchise or sales agreement;~~

20 ~~(iv) execute a certificate to the effect that the~~
 21 ~~applicant has a permanent building for the display and sale~~
 22 ~~of new motor vehicles at the location of the premises where~~
 23 ~~sales are conducted;~~

24 ~~(v) execute a certificate to the effect that the~~
 25 ~~applicant has a bona fide service department for the repairs,~~

1 ~~service, and maintenance of motor vehicles; and~~

2 ~~(vi) execute a certificate to the effect that the~~
 3 ~~applicant is a bona fide dealer in new motor vehicles and~~
 4 ~~that he is recognized by a manufacturer, importer, or~~
 5 ~~distributor as a dealer in new motor vehicles.~~

6 ~~(b) To qualify as a used motor vehicle dealer and for~~
 7 ~~the use of "UD" plates, or as a trailer, semitrailer, or~~
 8 ~~special mobile equipment dealer and for the use of "DMR"~~
 9 ~~plates, or as a motorcycle dealer and for the use of "MCD"~~
 10 ~~plates, the applicant must, in addition to the matters set~~
 11 ~~forth in subsections (i), (ii), and (iv) of subsection~~
 12 ~~(iii)(a) above, provide:~~

13 ~~(i) a statement that the applicant has a permanent~~
 14 ~~building and lot for the display of motor vehicles and an~~
 15 ~~illuminated sign indicating the firm name and headquarters~~
 16 ~~as the principal place of business; and~~

17 ~~(ii) a certificate to the effect that the applicant is~~
 18 ~~a bona fide dealer in used motor vehicles, trailers,~~
 19 ~~semitrailers, special mobile equipment, or motorcycles.~~

20 ~~(c) In addition to the matters required in subsection~~
 21 ~~(iii)(b) above, an applicant for a used motor vehicle dealer~~
 22 ~~license shall certify under oath that the applicant sold in~~
 23 ~~excess of 18 used motor vehicles during the previous~~
 24 ~~calendar year. In lieu of this requirement, a new applicant~~
 25 ~~for a used motor vehicle dealer license, who has not made~~

1 ~~application for a used motor vehicle dealer license for a~~
 2 ~~period of 5 years immediately preceding the current~~
 3 ~~application, shall pay, in addition to all sums required by~~
 4 ~~this section and other provisions of law, the sum of \$500 to~~
 5 ~~the registrar of motor vehicles.~~

6 ~~(2) For the purposes of this section, a private~~
 7 ~~residence, tent, or temporary building is not a sufficiently~~
 8 ~~permanent place of business to qualify under the~~
 9 ~~requirements set forth above. In addition to the information~~
 10 ~~required above, the registrar may require such information~~
 11 ~~as is necessary to efficiently administer this law.~~

12 ~~(3) The applicant for a dealer's license shall also~~
 13 ~~file with his application a good and sufficient bond in the~~
 14 ~~sum of five thousand dollars (\$5,000), and the bond shall be~~
 15 ~~conditioned that the applicant shall conduct his business in~~
 16 ~~accordance with the requirements of the law. All bonds shall~~
 17 ~~run to the state of Montana and shall be approved by the~~
 18 ~~registrar of motor vehicles and filed in his office and~~
 19 ~~shall be renewed annually.~~

20 ~~The registrar of motor vehicles shall not register or~~
 21 ~~license as a dealer any applicant for the sale of new motor~~
 22 ~~vehicles at retail unless such applicant owns, leases or~~
 23 ~~rents a permanent building wherein he shall conduct his~~
 24 ~~business and who has a dealer's franchise from a~~
 25 ~~manufacturer of motor vehicles. A private residence, tent,~~

1 ~~or temporary building is not a sufficiently permanent place~~
 2 ~~of business within the meaning of this section. The~~
 3 ~~registrar of motor vehicles shall not register or license~~
 4 ~~any applicant as a dealer in used cars unless such applicant~~
 5 ~~furnishes sufficient evidence to the registrar that he has a~~
 6 ~~building or lot to provide display of merchandise, a sign~~
 7 ~~indicating the firm name and headquarters as the principal~~
 8 ~~place of business.~~

9 ~~(4) Upon making such application, the applicant shall~~
 10 ~~pay to the registrar of motor vehicles, in addition to the~~
 11 ~~fees required of dealers under the provisions of section~~
 12 ~~53-122, a fee of five dollars (\$5). Upon receipt of the~~
 13 ~~application, fee and bond, as provided above, the registrar~~
 14 ~~of motor vehicles shall examine the application, and may,~~
 15 ~~prior to issuing a license, make individual investigation of~~
 16 ~~the truth of the statements contained in the application. If~~
 17 ~~the registrar of motor vehicles is satisfied that the~~
 18 ~~applicant qualifies for the issuance of a dealer's license~~
 19 ~~under the provisions of this act, he may thereupon issue the~~
 20 ~~same.~~

21 ~~(5) Every dealer licensed under this section shall~~
 22 ~~keep a book or record of the purchase, sale or exchange or~~
 23 ~~receipt for the purpose of sale, of any used vehicle, a~~
 24 ~~description of such vehicles, together with the name and~~
 25 ~~address of the seller, of the purchaser, and of the alleged~~

1 owner or other person from whom such vehicle was purchased
 2 or received, or to whom it was sold or delivered, as the
 3 case may be. Such description in the case of motor vehicles
 4 shall also include the engine number, if any, the maker's
 5 number, if any, chassis number, if any, and such other
 6 numbers or identification marks as may be thereon, and shall
 7 include a statement that a number has been obliterated,
 8 defaced or changed, if such is the fact. In the case of a
 9 trailer, semitrailer or special mobile equipment, the record
 10 shall include the manufacturer's number and such other
 11 numbers or identification marks as may be thereon. He shall
 12 also have in his possession a duly assigned certificate of
 13 title from the owner of said motor vehicle in accordance
 14 with the provisions of another section of this act, from the
 15 time when the motor vehicle is delivered to him until it has
 16 been disposed of by him.

17 [6] Upon the licensing of a dealer as a new motor
 18 vehicle dealer, used motor vehicle dealer, or trailer,
 19 semitrailer, or special mobile equipment dealer, or a dealer
 20 of the motorcycle-type vehicle, the registrar of motor
 21 vehicles shall assign to such dealer a distinctive serial
 22 license number as a dealer and furnish every qualified
 23 dealer in motor vehicles with not less than two (2) sets of
 24 number plates, and as many more as the fee the dealer pays
 25 entitles the dealer to, which number plates shall be similar

1 to number plates furnished to owners of motor vehicles but
 2 shall bear thereon, in addition to the serial number
 3 assigned such dealer, ~~the letter "D" if the dealer sells new~~
 4 ~~motor vehicles (including trucks and trailers) or new and~~
 5 ~~used motor vehicles (including trucks and trailers); the~~
 6 ~~letters "UD" if the dealer sells used motor vehicles~~
 7 ~~(including trucks and trailers) only; and the letters "DTR"~~
 8 ~~if the dealer sells trailers, semitrailers or special mobile~~
 9 ~~equipment (new or used) only; and the letters "MCD" if the~~
 10 ~~dealer sells vehicles of the motorcycle type. Only new motor~~
 11 ~~vehicle dealers' license plates bearing the letter "D" shall~~
 12 ~~be assigned if both new and used motor vehicles (including~~
 13 ~~trucks and trailers) are sold; and only one license fee~~
 14 ~~shall be required of any one dealer; the letter "D", if the~~
 15 ~~dealer is authorized to sell new motor vehicles (including~~
 16 ~~trucks and truck-trailers); the letters "UD" if the dealer~~
 17 ~~is authorized to sell used motor vehicles (including used~~
 18 ~~trucks and used truck-trailers); the letters "DTR" if the~~
 19 ~~dealer is authorized to sell trailers, semitrailers, or~~
 20 ~~special mobile equipment (new or used); and the letters~~
 21 ~~"MCD" if the dealer is authorized to sell vehicles of the~~
 22 ~~motorcycle type (new or used). With the exception of a~~
 23 ~~dealer authorized to sell new motor vehicles (including~~
 24 ~~trucks and truck-trailers) and to use the "D" plate, no~~
 25 ~~dealer authorized to transact business under the provisions~~

1 ~~of this section may offer for sale or trade any vehicle~~
 2 ~~described in this section except such vehicles as are~~
 3 ~~authorized by the plates assigned to him. If an applicant~~
 4 ~~wishes to sell more than one type of vehicle, he shall make~~
 5 ~~application for each separate authorization. No dealer~~
 6 ~~plate assigned to a dealer may be used on any vehicle other~~
 7 ~~than the type described in this section. A dealer authorized~~
 8 ~~to sell new motor vehicles and assigned a "D" plate is~~
 9 ~~authorized to sell both new and used motor vehicles~~
 10 ~~(including trucks and truck-trailers), and "D" plates may be~~
 11 ~~displayed on either new or used motor vehicles by a licensed~~
 12 ~~dealer in new vehicles.~~ The registrar of motor vehicles
 13 shall cause to be placed on each set of license plates
 14 issued to a dealer, a serial number assigned to each dealer
 15 and the actual number of license plates issued to each
 16 dealer. The number of the dealer shall follow the prefix of
 17 the county, and the number of plates issued the dealer shall
 18 follow the prefix of the county and the number of the
 19 dealer, the dealer's number to be separated from the county
 20 prefix by a dash, and the number of plates issued to a
 21 dealer to be separated from the dealer's number by a dash,
 22 as follows: Dealer number 4 in Lewis and Clark County would
 23 be numbered 5-4, and if the dealer were issued three sets of
 24 plates, they would be numbered consecutively as follows,
 25 5-4-1, 5-4-2 and 5-4-3. Dealers properly licensed under this

1 section are authorized to use and display, dealer's license
 2 plates on any motor vehicle held for bona fide sale or used
 3 principally in the conduct of the dealer's business in
 4 selling or demonstrating motor vehicles. Dealer plates may
 5 be used and displayed only on motor vehicles that are
 6 principally situated in the county in which the dealer has
 7 his principal place of business. No dealer's license plate
 8 shall be used or displayed on vehicles normally used for
 9 hire, lease or rental or for purposes not incident to the
 10 business of a motor vehicle dealer. If it shall appear to
 11 the satisfaction of the registrar of motor vehicles, from
 12 information furnished to him by the sheriff or any other law
 13 enforcement officer, that any such dealer has been
 14 improperly licensed, has used the dealer's license in a
 15 ~~manner other than the one permitted above on a vehicle other~~
 16 ~~than one authorized by this section,~~ or is not qualified as
 17 a dealer under the requirements of this section, the
 18 registrar of motor vehicles may revoke such dealer's
 19 license. No person, firm, corporation or association shall,
 20 for commission or profit, engage in the business of buying,
 21 selling, exchanging or acting as a broker of new motor
 22 vehicles, trailers or semitrailers unless duly licensed in
 23 compliance with this section (except trailers having an
 24 unladen weight of less than five hundred (500) pounds).

25 Any person violating the provisions of this section

LC 1406/01

1 shall be guilty of a misdemeanor and subject to a fine of
2 not less than two hundred fifty dollars (\$250) and not more
3 than five hundred dollars (\$500). For the purposes hereof,
4 every sale of a motor vehicle in violation of the provisions
5 of this section shall be deemed a separate offense."

-End-

STATE OF MONTANA

REQUEST NO. 439-77

FISCAL NOTE

Form BD-15

In compliance with a written request received February 8, 19 77, there is hereby submitted a Fiscal Note for House Bill 650 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly. Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

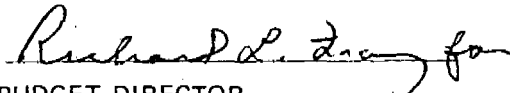
An act amending Section 53-118, R.C.M. 1947 (Application for a Dealer's License) to provide for regulation of motor vehicle and trailer dealers; defining the acquisition and use of dealer license plates.

FISCAL IMPACT:

None. This bill merely increases the requirements for obtaining motor vehicle and trailer dealers' license plates.

TECHNICAL NOTE:

Section (1)(c) - no provision is made for a dealer that has not sold in excess of eighteen (18) used vehicles in the previous calendar year and intends to in the coming year, but has also applied for a used motor vehicle dealer license within a period of five (5) years.


BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-16-77

HIGHWAYS AND TRANSPORTATION
COMMITTEE

February 15, 1977

The Committee on Highways and Transportation was called to order on February 15, 1977 at 10:00 a.m. with Chairman Baeth presiding and all members were present, except Representative Kanduch and Hansen (excused).

The following bills were scheduled for discussion today: HB 640, HB 650, HB 688 and HJR 53.

HOUSE BILL 650

Representative Scully, chief sponsor of this bill, said it is concerned with an updating of language aimed at eliminating abuse of dealer plates. It states stricter requirements for getting the plates for new and used car dealers, motorcycle dealers and trailer dealers. He mentioned a stipulation that an applicant for a used motor vehicle dealer license shall certify that he sold in excess of 18 used motor vehicles during the previous year. Rep. Scully said this number of 18 has no direct significance and if the committee wished to change it to a lesser number, he would not be against it as long as it did not go below 12.

He also mentioned the requirement for a \$500 fee to be paid if the applicant has not applied for a used motor vehicle dealer license in the last five years. Again he said this amount of \$500 has no direct significance and if the committee wished to change it to a lesser amount, he would not be against it as long as it did not go below \$250.

Proponent Gerald Raunig, representative of the Montana Automobile Dealers Association, said they support this bill. They feel passage of this bill will strengthen the law and do away with abuse of dealer plates.

Larry Huss, attorney for Montana Automobile Dealers Association, said under the existing laws dealer plates are easily acquired and there is little control of their use. By using dealer plates, taxes are avoided. He feels the \$500 charge is high enough to eliminate people acquiring dealer plates just to avoid taxes.

Proponent Sgt. Stollfuss of the Highway Patrol said they support this bill, particularly the parts of it that will help them enforce the misuse of dealer plates. Under the present statutes, it is impossible to enforce this.

Mike Meldahl, chief of Data Processing Bureau of the Department of Justice, gave out a computer listing of Montana dealers by county showing number of dealer plates of each one. It covers new and used car dealers, motorcycle and trailer dealers. By

looking through this listing, it can be seen the volume of sets that are being used. If the volume of business is checked, it gives a person an idea of the misuse that is happening.

Proponent Representative Day, who is sponsoring a similar bill, spoke in support of this bill. He feels this strengthening of the restrictions and penalties is a step in the right direction.

He had some suggestions: Under the used car dealer requirements, an illuminated sign is mentioned. He feels this is not fair to the smaller dealer. He also questioned the number of 18 as the requirement of sales to acquire a used car dealer license and get dealer plates. Again he feels this is too high and is unfair to the smaller dealer. He also feels the \$500 fee for a used car dealer without previous sales is too high. He suggested \$250.

Proponent May Jenkins, Yellowstone County Treasurer, said she is in favor of this bill, although it might not be as strong as she would have liked. She feels there is a great deal of misuse of dealer plates, both new and used car dealers. They feel this bill is a step in the right direction.

Opponent William Romine, representing Montana Automobile Dismantler's and Recyclers Association, said their association opposes the provisions of this bill concerning used car dealers. They feel the number 18 is too high. The \$500 fee is too high. The small repair shop that fixes wrecked cars for sale cannot afford an illuminated sign and the \$500 fee. It also restricts the building to a detached building. Sometimes this type of small business uses an attached garage as the place of business. This would put them out of business. This will also hurt some motorcycle businesses. Their volume is not always over 18, either.

Representative Scully said the words "illuminated sign" for used car dealers should perhaps be changed to "permanent". He feels the effective date of July 1, 1977 is correct.

Representative Tropila requested William Romine to write an amendment for this bill to provide for a person authorized as a wrecking yard facility.

Hearing closed on HB 650. All materials are marked Exhibit 10.

HOUSE BILL 373

This committee had sent HB 373 to the Rules Committee and it is now returned with the suggested amendments approved by the Rules Committee. Rep. Keyser moved to adopt the amendments. This motion was approved unanimously. (Rep. Hansen excused.)

Rep. Keyser made a motion of AS AMENDED DO PASS. This motion carried unanimously. (Rep. Hansen excused)

HOUSE JOINT RESOLUTION 76

Representative Mular made a motion of DO PASS. The vote was 11 yes, with Rep. Tropila no. (Rep. Hansen excused)

HOUSE BILL 650

Representative Mular made a motion on adopting the following amendment:

Add new subsection (1)(d) on page 5, line 6: "(d) The provisions of subsection (1)(c) above, do not apply to an applicant who is licensed as a motor vehicle wrecking facility under the provisions of Title 69, chapter 68, R.C.M. 1947."

This amendment was approved unanimously. (Rep. Hansen excused)

Representative Mular made a motion to adopt 12 other amendments worked out by the subcommittee. (See attached sheet). This was approved unanimously. (Rep. Hansen excused) Representative Tropila moved AS AMENDED DO PASS. This was unanimously approved. (Rep. Hansen excused).

HOUSE BILL 640

Representative Tropila made a motion of DO NOT PASS. Rep. Mular made a substitute motion of DO PASS. The vote was 11 no with Rep. Mular yes. (Rep. Hansen excused) This substitute motion failed.

Rep. Tropila made a motion of DO NOT PASS. The vote was 11 yes with Rep. Mular no. (Rep. Hansen excused) Motion carried.

Executive Session ended at 12:45 p.m.

William R. Baeth
William R. Baeth, Chairman

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then larger vehicles would have to be purchased, but the larger cars would only be purchased when documentation was provided of the need for the vehicle. Mr. Glenn stated that it would be easier to administer the implementation of the resolution if the word primary was left out of it, but the department would continue to operate as it is now with regard to the purchase of the smaller cars.

Senator Hager commented that it is difficult to get the small foreign cars repaired. Would the resolution leave enough leeway for the department to be able to get quick and good service on the compacts. Mr. Glenn answered that SB 208 would not have left that leaway. The reason that the department has not gone to the sub-compacts is that there are limitations on the parts and the repairs. The intermediate and the compacts are more durable, and are thus a better buy for the state. Maintenance, costs, manufactures' bids, etc., are all taken into consideration and would still be with the resolution.

Senator Hager commented that he had had a problem with a breakdown in a compact and most service stations would not work on the car, forcing him to have it towed back to Billings. He wouldn't want the state to have to pay for such extravagancies. Senator Hager said that he had liked Senator Blaylock's bill, but with the problems that had resulted, it was best that the bill was killed.

Senator Bergren seconded the motion of Senator Smith. The motion carried with Senators Smith, Bergren, Healy and Manning voting aye, Senators Aber, Hager and Etchart voting no and Senators Hazelbaker, Lockrem and Graham absent. Senator Smith will carry the resolution on the floor.

CONSIDERATION OF HOUSE BILL 650: Representative John Scully, chief sponsor of the bill, testified that this bill was an attempt to clear up the abuses that occur with dealer plates. The main types of abuses include the use of dealer plates by those who are not legitimately in the business, plates are passed around, and plates are generally used for purposes other than taking the economic burden off of the dealers. Representative Scully went through the bill section by section, noting the amendments and changes in the law.

Representative Scully said that one of the complaints that has been received is that dealers plates are found on college campuses and have been sent to school on cars that are not really for sale. This bill tightens the law and requires that the dealers submit quarterly reports as to where the plates are. There would be no justification to cross the county lines and therefore those plates on college campuses would not be in legitimate use.

Representative Scully said that there are also abuses of mobile home and motor cycle plates, with a small dealer having too many plates. Another bill was introduced to deal with the problems of dealer plate abuses by Representative Day. Both bills went into a subcommittee and this bill is the result.

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Mr. Gerald Raunig of the Montana Auto Dealers Association testified that he had worked with Representative Scully on this bill. This bill will strengthen the law enforcement over the use of dealer plates, will clean up the language in the law and will take care of some of the abuses of dealer plates. Mr. Raunig stated that in preparing the bill he had had several discussions with law enforcement people to work out the best approach and that this bill is the result.

Mr. Larry Huss, legal counsel for the Montana Auto Dealers Association, gave a brief overview of the bill. He stated that the statutes had been amended often and were really unclear and messy. This bill takes care of some of those problems by striking all of the requirements and reenacting those requirements in different categories.

Some of the new requirements of the bill, Mr. Huss testified, include new auto dealers to have a bona fide service department. For used car dealers, a permanent building, a lot for display and a fixed identifiable sign that is visible at 100 feet are required. In order to qualify for the licenses, a used car dealer must have sold 12 vehicles in the previous year or must pay \$150 in addition to the other fees required by the bill.

Mr. Huss stated that the bill restricts the use of the dealer plates so that a motorcycle dealer plate could not be used on cars, etc. The bill also requires the dealer to justify the number of plates that he requests and that dealer must certify quarterly who does use the plates. Dealer plates are restricted to use in the principle counties of business and may be used only on vehicles held for bona fide sale.

Mr. Huss continued that the amendments to the statutes will cure the abuses of dealer plates in that only bona fide dealers will have access to the plates. New dealers will be required to have a franchise to sell new cars and used car dealers will get plates on the basis of a fee or selling 12 cars or more. By allowing use of plates in the county, abuses of pleasure trips and college students with dealer plates will be eliminated.

Mr. Larry Majerus of the Motor Vehicle Division of the Justice Department testified that the computer print outs that he held showed the excessive number of dealers in the state. The Motor Vehicle Division receives approximately 700 complaints per year about people having dealer plates that weren't actually in the business. The response of the Division has been that the law does not now require the person to be in business in order to have the dealer plates. Missoula County has recently successfully prosecuted some cases of abuse of the dealer plates on the University campus. This bill will give teeth to enforcement, but will not preclude people who are really in the business from selling cars. Even students who may be working part time for a dealer would not be precluded from using dealer plates, but the burden of proof would rest on the person using

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the dealer plates to prove that he was a bona fide dealer.

Senator Aber asked how with this bill you could prove that a person was not selling cars even though the car with the dealer plates was always parked on a college campus. Representative Scully responded that the teeth of this bill were in the reporting system. The actual sales had to be substantiated; if a person had never sold a car and did not work at a franchise or a bona fide dealer, then the plates could be refused. Mr. Huss added that the law would require active involvement in the selling of cars and that the plates would be restricted to the area of the dealership.

Senator Aber asked how the state could prove that a college student was a salesman if he said that he was trying to sell the car, but his friends just didn't have the money at the time. Mr. Huss responded that if the state said they could find no proof that the person was involved in the selling of cars, then the burden of proof would be on the student to prove that he was. Mr. Majerus added that such a thing had actually happened in Missoula at the University of Montana and that the law enforcement officials often will offer to test drive the car. If the person with the dealer plates refuses to allow him to do so, then he is charged with the misuse of the dealer plates. The Missoula County Attorney successfully prosecuted the case in court.

Senator Aber asked about the \$150 fee for used dealers and if this would apply only the first time the used dealer applies for the dealer plates. Mr. Huss responded that in subsequent years if the used car dealer has not sold 12 vehicles, then he will have to pay the fee again. This makes it no longer economically feasible to cheat on the taxes by getting dealer plates. With new dealers, a franchise is necessary.

Senator Aber asked if the recording of the name, make, distributor, etc. was an attempt to cut down on the boot leg dealers. Mr. Huss stated that all that was taken care of in the MSO bill that was previously handled by this committee and that this bill does not really address that problem.

Sergeant Ted Stollfuss of the Montana Highway Patrol testified in support of the bill stating that this would be a big step forward in curbing the abuse of dealer plates.

Senator Aber commented that he felt that quarterly reports on the location of the dealer plates would be a hardship on the smaller dealers. Most of the small dealers do not have the plates assigned as they do not have many full time salesmen. So the plates might circulate among several salesmen. He suggested that this quarterly report might only apply to those dealers with 15 or more plates. Representative Scully responded that he didn't think there was a problem with this reporting for the small dealer because the language of the bill reads the "primary" user of each plate. If you sign the plate out to a number of different people, then you would put yourself down as the primary user. The state would want to know who to check

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with if the plate was reported as being abused. The computer print outs indicate that the biggest abusers of the dealer plates are the small dealers. This bill attempts to make someone responsible for the direction of the use of the plates assigned to him.

Chairman Manning asked how detailed the reports that must be filed are. If they are very detailed reports, the smaller dealers might have problems filing them so often. Mr. Raunig answered that it was his understanding that the quarterly report would include such information as the number of plates and who they were assigned to. The plates that were just in the box and were not assigned would be recorded as being assigned to the dealer and he would be responsible for them. Mr. Huss added that an extra advantage to the quarterly reporting is that the reporting system will be an indication of whether or not we have gotten a handle on the abuses of the dealer plates and to see what further changes would be necessary in future legislatures.

Senator Etchart asked how much tax money was being lost through the abuses of the dealer plates. Representative Scully answered that the Yellowstone County Treasurer had given an estimated figure for that county, but that he would have to check his files for the quoted figure. Senator Aber commented that he thought there were about 80 or 90 dealers in Billings with the dealers plates that were not really in the business. Representative Scully added that by looking at the computer print outs it is really amazing at the number of dealer plates out. Mr. Raunig stated that about 1 1/2 years ago the Yellowstone County Treasurer suspected that there were about 86 plates in effect that she considered not to be bona fide dealers. An estimated 300 plates state wide are considered not to be bona fide.

Senator Hager asked what would be done with the report once it was filed. Mr. Majerus answered that the report regulations would be drawn up by the Division and that he foresaw the same type of report that Mr. Raunig did. It will not be a complicated report. A dealer that was at one of the House hearings did the same type of thing that the report will require off the top of his head in about five minutes time and he had 30 to 40 plates. After the report is filed, if there is a complaint then the Division will call the dealer and will provide a way to trace down the plates. If the complaint is valid, then the report is on file and ready for use by the Highway Patrol. If it is in the box of a dealer, then the dealer is on the spot.

Senator Hager commented that if abuses are reported now on plates assigned to a dealer, then the dealer is on the spot. What is the advantage of the report. Representative Scully answered that it is a help to the dealer in that he knows who has which plates and will therefore know who is abusing the plates. The County Treasurer can also pin down dealers who have few salesmen and many plates that are assigned to the box. It would also be a help in places like Bozeman in which the personnel in the dealerships has shiften between the three dealerships back and forth in the last 8 months with 12 people.

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Senator Hager asked if the reason for the reporting was to force the dealers to keep track of their plates. Representative Scully answered that it would be a help to the dealers and to the Highway Patrol.

DISPOSITION OF HOUSE BILL 650: Senator Healy moved that SB 650 be concurred in. Senator Aber seconded the motion. The motion carried with Senators Graham, Hazelbaker and Lockrem absent and Senators Etchart and Bergren voting no.

An informal discussion took place about the effect of HB 650 and the reasons for the no votes. Senator Smith moved that HB 650 be reconsidered. Senator Hager seconded the motion. The motion to reconsider carried unanimously with Senators Lockrem, Healy, Hazelbaker and Graham absent.

ADJOURNMENT: There being no further business, the meeting was adjourned at 10:57 a.m.

Dave Manning

DAVE MANNING, CHAIRMAN

ROLL CALL

HIGHWAYS AND TRANSPORTATION COMMITTEE

45th LEGISLATIVE SESSION - - 1977

Date 3/15

[illegible]

SENATE *Highways & TRANSPORT* COMMITTEE

FILE HJR 60, HB 52, HB 373 VISITORS' REGISTER
HB 650

DATE 5/15

NAME	REPRESENTING	BILL #	(check for SUPPORT)	OP
D.B. Tooley	MHP	HB52		✓
TED STOLLHUS	M.H.P.	HB650	✓	
Larry Huss	MADA	HB650	✓	
GERALD F. RAUNIG	MADA	HB650	✓	
Luther Blann	Dept. Admin.	HJR60	✓	
Dawn A. North	League of Women Voters	HJR60	✓	
Porothy Bradley	State Rep.	HJR60		
John Sully	Dist. 76	610	✓	
Larry MAJERUS	Administrator, Div. of M.V.	52/650		

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY

March 17, 1977

whereby farmers pay taxes on special properties at the same time that they pay the real property taxes. Senator Lockrem stated that it is the same type of delay as he gets with his boat to just pay the boat taxes with the regular property taxes.

Senator Graham asked if a plane was registered in Wyoming but spent the best part of the year in Montana would it have to pay Montana taxes. Representative Fagg answered that the purpose of the decal is so that the authorities can check and keep close count on the planes on the field. If there are some parked there constantly with no Montana decal, then a \$100 fine would be imposed and they would be forced to buy a Montana decal. Representative Fagg elaborated that in addition to the fine, the violator would have to pay Montana taxes on the plane and would also be required to pay an additional fine if they waited beyond the allowed time period to pay the taxes and get the decal.

Senator Lockrem asked about the possible violations by taking the plane in for the overhaul about March 1 and having it be classified as nonflyable under the bill. Representative Fagg stated that he did not think that it would be worth it to the fliers to take their planes out of the flyable category because of the hassles with the certifications of the plane as being flyable. Senator Etchart confirmed that there would likely be no problem with that because of the red tape involved in keeping the license to fly the plane; the pilots would not want to take the plane out of the flyable category. Also, it is not economically feasible to keep the plane in the nonflyable category long because of the capital investment in the plane to begin with.

DISPOSITION OF HOUSE BILL 373: Senator Etchart moved that SB 373 be concurred in. Senator Graham seconded the motion. The motion carried unanimously. Senator Etchart will carry the bill.

DISCUSSION OF HOUSE BILL 650: Senator Smith explained to the committee members that were absent on Tuesday that there was much criticism in the committee over the requirements that the bill put on the used car dealers. He suggested that lines 13 to 17 be deleted on page 4.

Senator Graham commented that he saw no problem with the permanent sign provision, but he did have problems with the permanent building and the lot. Some individuals already sell out of a trailer and that should not be denied under this bill.

Senator Smith moved to delete lines 13 through 17 on page 4. Senator Lockrem seconded the motion.

Senator Graham commented that there was nothing wrong with requiring a sign, at least that indicated to the public that it was a place of business. Senator Smith asked Senator Graham about the person who is operating out of a service station and can't have a sign.

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Senator Smith cited an example of a man in Columbia Falls that has an office in a bulk station and cars on the lot, but the bulk station won't let him have a sign advertising his used car business. Senator Etchart explained that the property is owned by the oil company. He added that the problem with this bill is that it will cut down on competition. It is supposed to take care of abuses, but will in effect be driving people out of the business.

Senator Aber said that he agreed to an extent. There are those fly-by-night dealers that leave town over night and this bill is trying to get a handle on that problem. He said that he did not favor making it too difficult on the legitimate dealer, but there were problems with those that were here one day and gone the next.

Senator Lockrem stated that Mae Jenkins, the County Treasurer in Yellowstone County, used the abuses of the dealer plates as a campaign tactic in her last election. Maybe the abuses are not as many as the dealers would have us believe, but they seem to have come in the back door with this attempt to cut down the competition. Senator Lockrem added that even if we amend this bill to be a good bill, there will still be those few who will abuse the dealer plates.

Senator Aber asked what qualifies a dealer as being a bona fide dealer. Senator Bergren stated that for a used car dealer it would have to be either paying the \$150 fee or selling 12 cars in the previous year.

Senator Graham stated that if we don't get a handle on this thing, then a dealer can come in and be gone the next day. He said that he didn't like the provisions requiring the permanent building and the lot, but that the sign requirement seemed reasonable to him. Perhaps the sign should only have to be visible for 50 feet. Senator Smith said that if we amend the sign to be readable at 50 feet then the fly-by-night operator could take a cardboard and a stick and still be legal.

Senator Lockrem stated that he supported deleting the sign requirement because that really was only needed on high density streets. Advertising by other means could be more effective for other areas. We don't want to force used car dealers into the more expensive lots.

Senator Aber commented that it was all right with him to take out the sign requirement, but that he favored leaving the \$150 fee requirement in the bill. If a person is required to pay that much money to get into the business, then he will probably stay in town.

The question was called for on Senator Smith's motion to amend on page 4, deleting lines 13-17. Senator Graham voted no, Senator Etchart was absent and the rest of the committee voted aye. The motion carried.

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Senator Smith moved that the bill be amended on page 4 beginning on page 21 continuing down to line 1 on page 5 before the word who and that all of the material inbetween be deleted. He stated that a person could still be a used car dealer even if he only worked for a few months out of the year.

Senator Bergren clarified that this paragraph dealt with the meaning of this bill for the used car dealer. It requires the paying of a \$150 fee or the selling of 12 cars in the previous year.

Senator Graham stated that if we make it easy to qualify as a used car dealer then we would have a lot of dealer plates loose and the abuses would continue.

Senator Lockrem noted that we may be creating problems for the equipment dealers who under certain circumstances take trade ins, but are not usually in the used vehicle business. They will need dealer plates in certain circumstances, but would not be dealing in as many as 12 vehicles each year. This bill would either penalize the heavy equipment dealer by making him pay the fee each year or by forcing him to actively be in the used vehicle business.

Both Senator Graham and Chairman Manning commented that Senator Lockrem had a point there and that it probably would be a problem.

Senator Graham commented that the real teeth of this bill were in the reporting of the use of the dealer plates. He further stated that he felt that all dealers should be required to purchase at least one personal plate for their own cars.

Senator Lockrem stated that this dealer abuse of plates was not as big a problem as the committee had been led to believe. Senator Smith said that they had figured it amounted to about \$30,000 each year. Senator Lockrem stated that if we want to take care of the abuses it was fine, but we should not be giving tenure to those dealers already in business and penalizing those who want to get into business.

Senator Smith amended his motion to amend to delete everything after the word license on line 23, page 4 to and including the word license on line 1, page 5. Senator Aber asked that all of the rest of the intended amendments be made at this time. Senator Smith added that he also wanted to delete lines 11-16 on page 5.

Senator Lockrem suggested that if we really are serious about limiting the used car dealer plates to legitimate businesses, we could put the \$500 fee back in.

Senator Aber stated that he thought that the \$500 fee would be too steep especially for the little town dealers. Senator Lockrem noted that this is a one time expense that might stop the fly-by-nighters and some of the abuses in the larger areas.

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Senator Smith asked that the \$500 provision be included in his motion to amend.

Senator Hager stated that this reminded him of a bill about 10 years ago that raised the fee for eggmen from \$20 to \$50 in an attempt to get at the Butte runners. A few years later the Department of Agriculture was back asking to put the fee back to where it was before because it hadn't worked in stopping the fly-by-nighters. This bill probably won't solve that problem either in the car dealer business.

Senator Bergren commented that he favored making it difficult to get the dealer plates to begin with by charging the \$500 fee.

Senator Lockrem suggested that if the person who was not a bona fide dealer did not want to pay the \$500 fee, then he would be forced to pay the taxes on all of the cars that he owned. That should be a deterrent.

Senator Healy said that he did not think that the \$500 fee was necessary and that it was perhaps too much.

Senator Smith suggested that he would compromise and put the fee at \$300.

The committee voted unanimously to change the \$150 fee to \$300 and the motion to amend page 4, lines 23 through line 1 on page 5 also carried unanimously.

Senator Smith moved that the bill be further amended on page 5, deleting lines 11 through 16 and renumbering subsequent subsections.

Senator Lockrem commented that this would be a way to find out whether or not the auto dealers were really concerned about the abuses of dealer plates.

Senator Aber commented that there have always been qualifications set up for getting the dealer plates, but the plates have always been given out anyway.

Senator Lockrem commented that the legitimate dealers are really doing a good job of taking care of the dealer plates and not abusing them.

The committee voted unanimously to accept the final amendments offered by Senator Smith.

Senator Lockrem commented that perhaps it would work well to give the dealers two free sets of plates and make a nominal charge for each additional set. Senator Aber commented that it is that way presently with the first two sets costing \$35 and each additional set costing \$5 each.

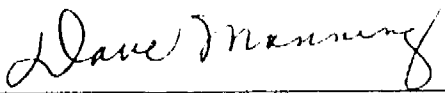
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DISPOSITION OF HOUSE BILL 650: Senator Smith moved that HB 650 as amended be concurred in. Senator Hazelbaker seconded the motion. Senator Etchart voted no, the rest of the committee voted aye. The motion carried. Senator Smith will carry the bill on the floor, Senator Aber will assist.

DISPOSITION OF HOUSE JOINT RESOLUTION 10: Senator Smith moved that HJR 10 as amended be concurred in. Senator Graham seconded the motion. Senator Hager asked for a restatement of the amendments. Senator Smith stated that the resolution had been amended to include Highway 93 to the Flathead County line, about 22 miles above Polson.

Senator Hager voted no, Senator Etchart was absent. The rest of the committee voted aye. The motion carried. Senator Smith and Senator Himsl will carry the resolution on the floor.

ADJOURNMENT: There being no further business, the meeting was adjourned at 10:40 a.m.



DAVE MANNING, CHAIRMAN

STANDING COMMITTEE REPORT

March 17 19 77

MR. President

We, your committee on HIGHWAYS AND TRANSPORTATION

having had under consideration HOUSE Bill No. 559

Respectfully report as follows: That HOUSE Bill No. 559,
third reading, be amended as follows:

1. Amend page 4, section 1, line 11.

Following: "(i)"

Strike: ", " —

Insert: "and"

Following: "(ii)"

Strike: ", and (iv)"

2. Amend page 4, section 1, line 12.

Following: "provide"

Strike: ":",

3. Amend page 4, section 1, lines 13 through 17.

Following: line 12

Strike: subsection (i) in its entirety

4. Amend page 4, section 1, line 18.

Strike: "(ii)"

EX-168

5. Amend page 4, section 1, lines 23 through line 1 on page 5.
Following: "license"

Strike: "shall certify under oath that the applicant sold in
excess of 10 12 used motor vehicles during the previous
calendar year. In lieu of this requirement, a new applicant
for a used motor vehicle dealer license,"

6. Amend page 5, section 1, line 6.

Strike: "\$150"

Insert: "\$300"

7. Amend page 5, section 1, lines 11 through 16.

Following: line 10

Strike: subsection (2) in its entirety

Renumber: subsequent subsections

AID AS SO AMENDED, BE CONCURRED IN

DAVE MANNING, CHAIRMAN

MINUTES OF THE MEETING
HIGHWAYS AND TRANSPORTATION COMMITTEE
MONTANA STATE SENATE

March 24, 1977

The twenty-first meeting of the Highways and Transportation Committee was called to order by Vice Chairman Aber on the above date in Room 404 of the State Capitol Building at 9:30 a.m.

ROLL CALL: Senator Hazelbaker was absent, Senator Manning was excused. All other members were present.

Those present to testify on the bill to be taken up in executive action included the following:

Ted Stollfuss	Montana Highway Patrol
Duane Tooley	Montana Highway Patrol
Larry Majerus	Motor Vehicle Division
	Department of Justice
Gerald Raunig	Montana Auto Dealers Association

DISCUSSION OF HOUSE BILL 650: Senator Smith commented that this bill was an attempt to tighten the abuses of dealer plates. The reason the committee had sent the bill out before as amended was because of a feeling in the committee that the effect of the bill would be to limit competition. Senator Smith said that he had worked up some new amendments that would accomplish the needed results. (See Attached #1) These amendments would cut down on the abuses, give the Highway Patrol some teeth in order to cut down on the abuses, and at the same time would not limit the competition among dealers.

Senator Graham commented that Senator Smith's amendments would make it illegal for a salesman or a dealer to take a car with dealer plates across town to lunch. Senator Smith said that that was his intention. Senator Graham answered that he felt that was too restrictive. The purpose of the bill was to get at the illegitimate dealers who have the dealer plates and are abusing them, but this was too tight. A dealer should not be allowed to take a pleasure trip with the dealer plates, but the law would cause problems if it were so tight that he couldn't drive to lunch.

Vice Chairman Aber commented that there is an old adage that a car salesman never goes to church without his order book in his pocket. If a salesman expects to sell cars, he must have his demonstrator with him at all times, and that includes church.

Senator Graham said that this amendment would prohibit a dealer from using a demonstrator to get parts for his business.

Senator Smith asked for comments by Mr. Gerald Raunig of the Montana Auto Dealers Association. Mr. Raunig said that he too

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felt that the amendment was too restrictive. In using the cars and the dealer plates for selling purposes, many more things are involved than just demonstrating a car to a customer. There would be a great hue and cry if this amendment were included in the bill.

Senator Smith commented that the amendment doesn't prohibit a dealer from demonstrating a car on any street or highway in Montana. The amendment is a good one and hits hard and was intended to do so. Senator Smith suggested that a section be added to allow for the pick up of vehicles from another dealer. The amendment would then allow for the use of the car and the dealer plates for almost anything but personal use. There would still be loopholes, but this would tighten it up considerably.

Senator Aber commented that he could see Senator Smith's point, but that in the business of sales, a good salesman sells everywhere that he thinks there might be a deal and that includes canvassing bars.

Senator Smith asked the committee if they really thought that for the cost of \$35 for the first two sets of plates, and for \$5 for each set thereafter, a dealer should really be allowed to run all over the place with the dealer plates used for his personal uses.

Captain Tooley addressed the amendment at the request of Senator Smith. He said that the amendment was really very tight, but that it was in line with the intent of the bill. The problem with the amendment is that it really does more than we want it to do in that a dealer would technically have to have a customer in the car at any time it was operating. The problem with the existing law is the word principally on page 10, line 11. This word can be interpreted to mean just about anything. A dealer may technically take his car fishing because the principal use is with the dealership and he is not fishing all the time. The committee might just want to remove that word and still leave the law open for the use of the dealer plates for things other than demonstrating a car to a customer. If the amendment before the committee were to be passed, the Patrol would be kept quite busy.

Senator Smith asked Captain Tooley if the amendment would stop the abuses. Captain Tooley answered that the Patrol would make a valiant effort, but there are not enough of them to watch it closely enough to have an effect.

Senator Hager commented that he had talked to May Jenkins, the County Treasurer in Yellowstone County and that she was also of the feeling that the removal of the word principally would be the most helpful.

Senator Lockrem commented that he had talked to May Jenkins about the committee amendments and that he was of the impression until he saw the article in the Great Falls Tribune that Jenkins

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thought the bill was all right.

At the request of Senator Smith, Mr. Larry Majerus of the Division of Motor Vehicles in the Department of Justice, commented on the bill. He said that the problem with the bill now is that a person with no intention to sell any cars can still get a dealers license for a one time fee of \$300. This bill does not solve the problem of who can get the dealer plates. Both the Attorney General, who was a former county attorney, and the Missoula County Attorney have said that the problem with the law from an enforcement point of view is the word principally. Mr. Majerus said that he agreed that Senator Smith's initial amendments were too restrictive because a demonstration of a car might just to be to drive it in front of someone's house. Right now with all of the state tournaments Mr. Majerus's office has received a lot of complaints because of the out-of-county dealer plates at the tournaments. But there is really no way to prosecute now with the law the way it is.

Senator Graham suggested that the bill has accomplished its purpose in that it ties the plates to a particular salesman. A dealer should have to buy at least one personal license plate for the car he uses personally, but by tying the plates to a salesman, that problem of the wife driving a dealer car all the time should be eliminated. Senator Graham said that another problem could be corrected in the bill by striking permanent before the word sign and force the dealer to display some type of a sign.

Senator Smith suggested a second amendment (See Attached #2) in addition to striking the word principally on page 10. This would take care of the problems of the wife using the dealer plates that Senator Graham talked about.

Mr. Raunig, at the invitation of Senator Graham, said that with the assigning of the plates to salesmen, the problem of the wife using the dealer plates should be eliminated. He further commented that with the quarterly certification of who the plates are assigned to should attack the problem of finding the plates on college campuses. Both the salesman and the dealer would be held accountable.

Senator Aber said that the big problem that May Jenkins has found with the dealer plates in Yellowstone County is that people are getting the plates that have no dealerships. About 96 different plates are now out in Yellowstone County that are not legitimate dealers and that's 90% of the abuse there. Senator Lockrem commented that she also objects to the dealers driving home with the dealer plates. Senator Aber said that that was too tight when someone was making their bread and butter that way.

Senator Smith moved that the bill be amended on page 10, line 11 striking the word "principally". Senator Graham seconded.

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the motion. The motion carried unanimously with Senators Hager, Hazelbaker, and Manning absent.

Senator Smith moved that the bill be further amended on page 10, line 18. The section would require that the car was for bona fide sale. Senator Graham said that he didn't think that would be necessary with the provision for forcing the plates to be assigned. Senator Smith asked Captain Tooley if he would have any problems with the amendment. Captain Tooley answered that he would not, but that with the word principally stricken, in addition to the assigning of plates, the problem would be taken care of. Senator Smith withdrew his motion.

Senator Graham said that he thought the committee should take a look at their previous action on the amendments on the sign section on page 4. Senator Smith asked what the existing law said. Mr. Raunig answered that a lot or building and a sign are now required. Senator Smith said that the only problems on that is the sign. If the word permanent is taken out before the word sign then it would be ok. This would allow the sale of cars out of a gas station.

The committee discussed the problems with the permanent building provision and the sign. Senator Bergren commented that by removing the whole section as the committee had done before didn't accomplish what the bill set out to do. Captain Tooley commented that one of the main abuses is the used dealer. Motel dealers, street corner dealers and other people with no interest in selling or being a used dealer abuse the plates. We need to get at him, not the legitimate dealer. The one thing that would help in this regard would be to require the dealer to move a certain number of vehicles each year in order to qualify for the dealer plates. To tie the dealer to a permanent location would also help to eliminate the dealer who "operates on the street corner or out of a motel".

Senator Graham moved to amend HB 650 by reconsidering the actions taken in the amendment to subsection (i) on page 4. He stated that his intention then would be to strike the word permanently as it appears twice in that section. Senator Etchart asked how big the sign that would be required would be. Senator Smith answered approximately 18" x 18". Captain Tooley said that a license plate can be read at 100' and the bill only requires the sign to be readable at 150'. Senator Etchart seconded the motion to reconsider. The motion carried unanimously; Senators Lockrem, Hazelbaker, Hager and Manning were absent.

Senator Graham moved to amend subsection (i) on page 4 as follows: Amend page 4 line 13, strike "permanent"; Amend page 4, line 14, strike "and", insert "or"; Amend page 4, line 15, strike "permanent". Senator Smith seconded the motion. The motion carried unanimously with Senators Manning, Lockrem, Hager, and Hazelbaker absent.

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Captain Tooley stated that the Patrol has problems with those who get the dealer licenses but are not really in the business of selling cars. If the requirement is put in that the persons qualifying for the dealer plates must sell a certain number of cars.

Senator Etchart commented that he felt the 12 car requirement was too great. Senator Bergren said that they were required to pay the \$300 fee. Captain Tooley responded that there are circumstances where it would not be a bad deal to pay the \$300 fee in lieu of paying the taxes because the way the bill is now written, the fee is only a one time thing and the dealer can get the plates forevermore without selling any cars.

Mr. Raunig stated that the intention of this section in the original bill was to address the problem of the non-dealers. The original bill was a \$500 fee as a deterrent the first time and the requirement to sell a certain number of cars thereafter or pay the \$500 fee again. The way the bill reads now it is a \$300 fee for the first time only.

Senator Graham commented that 12 was too many. He suggested cutting it back to six. Mr. Raunig said that there was nothing magic in any number, it was just some kind of proof the person was really in the car selling business.

Senator Bergren explained that the reason this requirement was stricken to begin with was the Lockrem problem example of the heavy equipment dealer being required to pay the fee every year. Senator Aber commented that he didn't think that this bill would affect them.

Senator Etchart said that he objected to stating a certain number of vehicles to be sold. There might still be some abuse, but they would have to spend some money in order to do so.

Senator Graham asked for clarification on the paying of the fee once and then selling a certain number of cars in order to keep the plates. Mr. Raunig said that was the case. He suggested that if the committee didn't want the number of plates in there then they should require that the fee be paid yearly.

Senator Etchart moved that the bill be amended on page 5, section 1, line 6, strike "." and insert: ", or shall certify under oath that the applicant sold 6 or more used motor vehicles during the previous calendar year." Bob Person said that there was some problem with the language in that if the and were in the amendment, the person would have to sell 6 cars before applying for the plates and if the or were in then he could qualify for the plates without paying the fee the first time if he had sold six cars in the preceding year.

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Senator Graham said that he wanted the bill to read that the \$300 fee would have to be paid the first time and every year thereafter if the dealer had not sold at least 6 cars the preceding year. Bob Person said that he could work that language out.

Senator Graham suggested if the committee members were all in agreement as to the intent of the amendment, then the committee could pass the intent of the motion and let Bob work out the wording.

Senator Hager asked what constituted the proof of having sold 6 cars. Captain Tooley said that the Registrar's office had records that could certify whether or not the cars were sold. Senator Graham said that the books would indicate who the cars were sold to and the truth of the matter could be traced down that way.

Senator Etchart moved to further amend section 1, pages 4 & 5, subsection (c) as intended by the committee and let Bob Person work out the wording. Senator Graham seconded the motion. The motion carried unanimously with Senators Smith, Hazelbaker, Manning and Lockrem absent.

Senator Hager asked if it would be possible to replace the words "BIG SKY COUNTRY" with the words "NOT LICENSED". This would be a psychological incentive not to use the dealer plates for personal use. Senators Healy and Aber both commented that the vehicle is really licensed, only at a different rate.
DISPOSITION OF HOUSE BILL 650:

Senator Etchart moved that HB 650 be concurred in as amended. Senator Graham seconded the motion. The motion carried with Senator Hager abstaining, Senators Lockrem, Manning, and Hazelbaker absent, Senator Smith voting "aye" in abstencia, and the remainder of the committee members voting "aye".

It was agreed that the secretary would have each of the committee members sign the final amendments before sending the Committee Report out.

ADJOURNMENT: There being no further business, the meeting was adjourned at 10:50 a.m.



LARRY ABER, VICE CHAIRMAN

COMMITTEE

BILL HR 650

VISITORS' REGISTER

DATE 3/24

NAME	REPRESENTING	BILL #	(check one) SUPPORT	OPPOSE
Ed Stollman	Mont. Hwy Patl	650	✓	
Larry H. Majerus	Adm. Motor Vehicle Div	650	✓	
D.B. Tooley	MHP		✓	
Gerald Raunig	Montana Auto Dealers Assoc,	650		

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY

STANDING COMMITTEE REPORT

March 24

19 77

MR. President

We, your committee on HIGHWAYS AND TRANSPORTATION

having had under consideration HOUSE Bill No. 650

Respectfully report as follows: That HOUSE Bill No. 650
third reading, be amended as follows:

1. Amend page 4, section 1, line 11.

Following: "(1)"

Strike: "1"

Insert: "and"

Following: "(11)"

Strike: ", and (iv)"

2. Amend page 4, section 1, line 13.

Following: "a"

Strike: "permanent"

3. Amend page 4, section 1, line 14.

Following: "building"

Strike: "and"

Insert: "or"

4. Amend page 4, section 1, line 15.

Following: "A"

~~DOORASS~~ Strike: "PERMANENT"

Chairman.

5. Amend page 4, section 1, line 21 through line 6 on page 5.
Following: line 20

Strike: subsection (c) in its entirety

Insert: "(c) To qualify for a used motor vehicle dealer license a person must submit an annual application for that license and comply with the provisions of this subsection in addition to fulfilling the requirements of subsection (1)(b) above. A new applicant for a used motor vehicle dealer license shall pay \$300 to the registrar of motor vehicles in addition to any other sums required by this section or other provisions of the law. An applicant for a renewal of a used motor vehicle dealer license shall certify under oath that he has sold more than five used motor vehicles during the preceding calendar year or pay an additional \$300 before he may be licensed."

6. Amend page 5, section 1, lines 11 through 16.

Following: line 10

Strike: subsection (2) in its entirety

Renumber: subsequent subsections

7. Amend page 10, section 1, line 11.

Strike: "principally"

AND AS SO AMENDED, BE CONCURRED IN

DAVE MANNING, CHAIRMAN

AMENDMENT TO HOUSE BILL 650

4. Amend page 10, section 1, lines 10 through 12.
Strike: "or used principally in the conduct of the dealer's
business in selling or demonstrating motor vehicles"

Insert: "The display of dealer plates under this section
authorizes the operation of a vehicle upon the streets and
highways of the state for the purpose of demonstrating the
vehicle to a prospective purchaser or for the purpose of test
driving the vehicle in connection with mechanical repairs
or adjustments made by the dealer in connection with pre-
paring the vehicle for sale, or for the purpose of transporting
a vehicle to a dealer's place of business."

Suggested amendments to HB 650

Amend page 10, section 1, line 18.

Following: "dealer."

Insert: "No person may use a vehicle displaying a dealer plate for his own personal or private use except as provided in this section."

Amendments to HB 650:

1. Amend page 4, section 1, line 11.

Following: "(i)"

Strike: "1"

Insert: "and"

Following: "(ii)"

Strike: ", and (iv)"

2. Amend page 4, section 1, line 13.

Following: "a"

Strike: "permanent"

3. Amend page 4, section 1, line 14.

Following: "building"

Strike: "and"

Insert: "or"

4. Amend page 4, section 1, line 15.

Following: "A"

Strike: "PERMANENT"

5. Amend page 4, section 1, line 21 through line 6 on page 5.

Following: line 20

Strike: subsection (c) in its entirety

Insert: "(c) To qualify for a used motor vehicle dealer license a person must submit an annual application for that license and comply with the provisions of this subsection in addition to fulfilling the requirements of subsection (1)(b) above. A new applicant for a used motor vehicle dealer license shall pay \$300 to the registrar of motor vehicles in addition to any other sums required by this section or other provisions of the law. An applicant for a renewal of a used motor vehicle dealer license shall certify under oath that he has sold more than five used motor vehicles during the preceding calendar year or pay an additional \$300 before he may be licensed."

6. Amend page 5, section 1, lines 11 through 16.

Following: line 10

Strike: subsection (2) in its entirety

Renumber: subsequent subsections

7. Amend page 10, section 1, line 11.

Strike: "principally"

HOUSE BILL NO. 650

INTRODUCED BY SCULLY, TROPILA

A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTION 53-118, R.C.M. 1947, TO PROVIDE FOR REGULATION OF MOTOR VEHICLE AND TRAILER DEALERS; DEFINING THE ACQUISITION AND USE OF DEALER LICENSE PLATES."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 53-118, R.C.M. 1947, is amended to read as follows:

"53-118. Application for dealer's license. (1) Every person, firm, corporation, or association who, for commission or profit, engages in the business of buying, selling, exchanging or acting as a broker of new motor vehicles, used motor vehicles, trailers, (except trailers having an unladen weight of less than five hundred (500) pounds), semitrailers or special mobile equipment as defined in section 53-642 and qualifies under subparagraph (f) of this section, shall cause to be filed, by mail or otherwise, in the office of the registrar of motor vehicles, a verified application for licensing as a dealer on a blank to be furnished by the registrar of motor vehicles for that purpose, and containing the information therein required. The application and all of the information therein contained

shall be verified by the Montana highway patrol. Each application must be accompanied by the license fee hereinafter named. Dealer's license must be renewed and paid for annually, and an application for relicensing must be filed not later than January first of each year. To qualify for licensing and the issuance and use of "D," "UD," "DTR," or "MCD" plates, as hereinafter provided, the applicant must furnish the following information and qualify under the following provisions:

~~(a) The name under which the business is conducted;~~

~~(b) Location of premises (street, address, city, county and state) where records are kept, sales are made and stock of motor vehicles displayed;~~

~~(c) Name and address of all owners or persons having an interest in the business; provided, however, that in the case of a corporation, the names and addresses of the president and secretary thereof will be sufficient;~~

~~(d) Name and make of all vehicles handled, if factory franchised or selling under a written agreement with a manufacturer, importer or distributor;~~

~~(e) Whether or not used vehicles are handled exclusively;~~

~~(f) A certificate to the effect that the applicant is a bona fide dealer in motor vehicles, trailers, semitrailers or special mobile equipment; and that the applicant is a~~

REFERENCE BILL
Corrected Printing

1 ~~dealer in new motor vehicles, is recognized by a~~
 2 ~~manufacturer, importer or distributor as a dealer in~~
 3 ~~particular makes of new motor vehicles.~~

4 ~~(g) Other information required by the registrar to~~
 5 ~~efficiently administer this law.~~

6 (a) To qualify as a new motor vehicle dealer and for
 7 the use of "D" plates, the applicant must:

8 (i) state the name under which the business is to be
 9 conducted and the location of the premises (street address,
 10 city, county, and state) where records are kept, sales are
 11 made, and stock of motor vehicles is displayed;

12 (ii) state the name and address of all owners or
 13 persons having an interest in the business, provided that in
 14 the case of a corporation, the names and addresses of the
 15 president and secretary thereof are sufficient;

16 (iii) state the name and make of all motor vehicles
 17 handled and the name and address of the manufacturer,
 18 importer, or distributor with whom the applicant has a
 19 written new motor vehicle franchise or sales agreement;

20 (iv) execute a certificate to the effect that the
 21 applicant has a permanent building for the display and sale
 22 of new motor vehicles at the location of the premises where
 23 sales are conducted;

24 (v) execute a certificate to the effect that the
 25 applicant has a bona fide service department for the repair,

1 service, and maintenance of motor vehicles; and

2 (vi) execute a certificate to the effect that the
 3 applicant is a bona fide dealer in new motor vehicles and
 4 that he is recognized by a manufacturer, importer, or
 5 distributor as a dealer in new motor vehicles.

6 (b) To qualify as a used motor vehicle dealer and for
 7 the use of "UD" plates, or as a trailer, semitrailer, or
 8 special mobile equipment dealer and for the use of "DTR"
 9 plates, or as a motorcycle dealer and for the use of "MCD"
 10 plates, the applicant must, in addition to the matters set
 11 forth in subsections (i), AND (ii), and (iv) of subsection
 12 (1)(a) above, provide:

13 ~~(i) a statement that the applicant has a permanent~~
 14 ~~building and OR lot for the display of motor vehicles and an~~
 15 ~~illuminated sign A sign readable at a minimum distance of~~
 16 ~~150 feet and indicating the firm name and headquarters as~~
 17 ~~the principal place of business; and~~

18 (i) A STATEMENT THAT THE APPLICANT HAS A PERMANENT
 19 BUILDING AND OR LOT AND A PERMANENT SIGN READABLE AT A
 20 MINIMUM DISTANCE OF 150 FEET AND INDICATING THE FIRM NAME
 21 AND HEADQUARTERS AS THE PRINCIPAL PLACE OF BUSINESS; AND

22 ~~(ii) a certificate to the effect that the applicant~~
 23 ~~is a bona fide dealer in used motor vehicles, trailers,~~
 24 ~~semitrailers, special mobile equipment, or motorcycles.~~

25 ~~(c) In addition to the matters required in subsection~~

~~111(b) above, an applicant for a used motor vehicle dealer license shall certify under oath that the applicant sold in excess of 10 12 used motor vehicles during the previous calendar year. In lieu of this requirement, a new applicant for a used motor vehicle dealer license shall certify under oath that the applicant sold in excess of 12 used motor vehicles during the previous calendar year. In lieu of this requirement, a new applicant for a used motor vehicle dealer license who has not made application for a used motor vehicle dealer license for a period of 5 years 1 year immediately preceding the current application shall pay in addition to all sums required by this section and other provisions of law the sum of \$500 \$150 \$300 to the registrar of motor vehicles.~~

(C) TO QUALIFY FOR A USED MOTOR VEHICLE DEALER LICENSE A PERSON MUST SUBMIT AN ANNUAL APPLICATION FOR THAT LICENSE AND COMPLY WITH THE PROVISIONS OF THIS SUBSECTION IN ADDITION TO FULFILLING THE REQUIREMENTS OF SUBSECTION (1)(B) ABOVE. A NEW APPLICANT FOR A USED MOTOR VEHICLE DEALER LICENSE SHALL PAY \$300 TO THE REGISTRAR OF MOTOR VEHICLES IN ADDITION TO ANY OTHER SUMS REQUIRED BY THIS SECTION OR OTHER PROVISIONS OF THE LAW. AN APPLICANT FOR A RENEWAL OF A USED MOTOR VEHICLE DEALER LICENSE SHALL CERTIFY UNDER OATH THAT HE HAS SOLD MORE THAN FIVE USED MOTOR VEHICLES DURING THE PRECEDING CALENDAR YEAR OR PAY AN ADDITIONAL \$300 BEFORE HE

MAY BE LICENSED.

(D) THE PROVISIONS OF SUBSECTION (1)(C) ABOVE, DO NOT APPLY TO AN APPLICANT WHO IS LICENSED AS A MOTOR VEHICLE WRECKING FACILITY UNDER THE PROVISIONS OF TITLE 69, CHAPTER 68, R.C.M. 1947.

~~(2) For the purposes of this section, a private residence, tent or temporary building is not a sufficiently permanent place of business to qualify under the requirements set forth above. In addition to the information required above, the registrar may require such information as is necessary to efficiently administer this law.~~

(2) The applicant for a dealer's license shall also file with his application a good and sufficient bond in the sum of five thousand dollars (\$5,000), and the bond shall be conditioned that the applicant shall conduct his business in accordance with the requirements of the law. All bonds shall run to the state of Montana and shall be approved by the registrar of motor vehicles and filed in his office and shall be renewed annually.

~~The registrar of motor vehicles shall not register or license as a dealer any applicant for the sale of new motor vehicles at retail unless such applicant owns, leases or rents a permanent building wherein he shall conduct his business and who has a dealer's franchise from a manufacturer of motor vehicles. A private residence, tent~~

~~1 or temporary building is not a sufficiently permanent place~~
~~2 of business within the meaning of this section. The~~
~~3 registrar of motor vehicles shall not register or license~~
~~4 any applicant as a dealer in used cars unless such applicant~~
~~5 furnishes sufficient evidence to the registrar that he has a~~
~~6 building or lot to provide display of merchandise, a sign~~
~~7 indicating the firm name and headquarters as the principal~~
~~8 place of business.~~

9 ~~141(3)~~ Upon making such application, the applicant
 10 shall pay to the registrar of motor vehicles, in addition to
 11 the fees required of dealers under the provisions of section
 12 53-122, a fee of five dollars (\$5). Upon receipt of the
 13 application, fee and bond, as provided above, the registrar
 14 of motor vehicles shall examine the application, and may,
 15 prior to issuing a license, make individual investigation of
 16 the truth of the statements contained in the application. If
 17 the registrar of motor vehicles is satisfied that the
 18 applicant qualifies for the issuance of a dealer's license
 19 under the provisions of this act, he may thereupon issue the
 20 same.

21 ~~151(4)~~ Every dealer licensed under this section shall
 22 keep a book or record of the purchase, sale or exchange or
 23 receipt for the purpose of sale, of any used vehicle, a
 24 description of such vehicles, together with the name and
 25 address of the seller, of the purchaser, and of the alleged

1 owner or other person from whom such vehicle was purchased
 2 or received, or to whom it was sold or delivered, as the
 3 case may be. Such description in the case of motor vehicles
 4 shall also include the engine number, if any, the maker's
 5 number, if any, chassis number, if any, and such other
 6 numbers or identification marks as may be thereon, and shall
 7 include a statement that a number has been obliterated,
 8 defaced or changed, if such is the fact. In the case of a
 9 trailer, semitrailer or special mobile equipment, the record
 10 shall include the manufacturer's number and such other
 11 numbers or identification marks as may be thereon. He shall
 12 also have in his possession a duly assigned certificate of
 13 title from the owner of said motor vehicle in accordance
 14 with the provisions of another section of this act, from the
 15 time when the motor vehicle is delivered to him until it has
 16 been disposed of by him.

17 ~~161(5)~~ Upon the licensing of a dealer as a new motor
 18 vehicle dealer, used motor vehicle dealer, or trailer,
 19 semitrailer, or special mobile equipment dealer, or a dealer
 20 of the motorcycle-type vehicle, the registrar of motor
 21 vehicles shall assign to such dealer a distinctive serial
 22 license number as a dealer and AFTER PAYMENT OF FEES furnish
 23 every qualified dealer in motor vehicles with not less than
 24 two (2) sets of number plates, and as many more as ~~the fee~~
 25 ~~the dealer pays entitles the dealer to, which~~ REQUIRED

1 ~~ACCORDING TO NEED, WHICH NEED SHALL BE JUSTIFIED BY THE~~
 2 ~~DEALER WITH THE INITIAL APPLICATION FOR LICENSE AND EACH~~
 3 ~~RENEWAL. ASSIGNED~~ number plates shall be similar to number
 4 plates furnished to owners of motor vehicles but shall bear
 5 thereon, in addition to the serial number assigned such
 6 dealer, the letter "B" if the dealer sells new motor
 7 vehicles (including trucks and trailers) or new and used
 8 motor vehicles (including trucks and trailers); the letters
 9 "UB" if the dealer sells used motor vehicles (including
 10 trucks and trailers) only; and the letters "BTR" if the
 11 dealer sells trailers, semitrailers or special mobile
 12 equipment (new or used) only; and the letters "MCD" if the
 13 dealer sells vehicles of the motorcycle type. Only new motor
 14 vehicle dealers' license plates bearing the letter "B" shall
 15 be assigned if both new and used motor vehicles (including
 16 trucks and trailers) are sold, and only one license fee
 17 shall be required of any one dealer. the letter "B", if the
 18 dealer is authorized to sell new motor vehicles (including
 19 trucks and truck-trailers); the letters "UB" if the dealer
 20 is authorized to sell used motor vehicles (including used
 21 trucks and used truck-trailers); the letters "BTR" if the
 22 dealer is authorized to sell trailers, semitrailers, or
 23 special mobile equipment (new or used); and the letters
 24 "MCD" if the dealer is authorized to sell vehicles of the
 25 motorcycle type (new or used). With the exception of a

1 dealer authorized to sell new motor vehicles (including
 2 trucks and truck-trailers) and to use the "B" plate, no
 3 dealer authorized to transact business under the provisions
 4 of this section may offer for sale or trade any vehicle
 5 described in this section except such vehicles as are
 6 authorized by the plates assigned to him. If an applicant
 7 wishes to sell more than one type of vehicle, he shall make
 8 application for each separate authorization. No dealer
 9 plate assigned to a dealer may be used on any vehicle other
 10 than the type described in this section. A dealer authorized
 11 to sell new motor vehicles and assigned a "B" plate is
 12 authorized to sell both new and used motor vehicles
 13 (including trucks and truck-trailers), and "B" plates may be
 14 displayed on either new or used motor vehicles by a licensed
 15 dealer in new vehicles. The registrar of motor vehicles
 16 shall cause to be placed on each set of license plates
 17 issued to a dealer, a serial number assigned to each dealer
 18 and the actual number of license plates issued to each
 19 dealer. The number of the dealer shall follow the prefix of
 20 the county, and the number of plates issued the dealer shall
 21 follow the prefix of the county and the number of the
 22 dealer; the dealer's number to be separated from the county
 23 prefix by a dash, and the number of plates issued to a
 24 dealer to be separated from the dealer's number by a dash,
 25 as follows: Dealer number 4 in Lewis and Clark County would

1 be numbered 5-4, and if the dealer were issued three sets of
 2 plates, they would be numbered consecutively as follows,
 3 5-4-1, 5-4-2 and 5-4-3. Dealers properly licensed under this
 4 section are authorized to use and display, dealer's license
 5 plates on any motor vehicle held for bona fide sale or used
 6 principally in the conduct of the dealer's business in
 7 selling or demonstrating motor vehicles. ~~Dealer plates may~~
 8 ~~be used and displayed only on motor vehicles that are~~
 9 ~~principally situated in the county in which the dealer has~~
 10 ~~his principal place of business.~~ No dealer's license plate
 11 shall be used or displayed on vehicles normally used for
 12 hire, lease or rental or for purposes not incident to the
 13 business of a motor vehicle dealer. EACH DEALER IS
 14 ACCOUNTABLE FOR EACH PLATE ISSUED AND SHALL CERTIFY
 15 QUARTERLY TO THE REGISTRAR OF MOTOR VEHICLES THE DISPOSITION
 16 OF EACH DEALER PLATE ASSIGNED TO THE DEALER, INCLUDING THE
 17 NAME, ADDRESS, AND OCCUPATION OF THE PERSON PRIMARILY USING
 18 EACH PLATE. If it shall appear to the satisfaction of the
 19 registrar of motor vehicles, from information furnished to
 20 him by the sheriff or any other law enforcement officer,
 21 that any such dealer has been improperly licensed, has used
 22 the dealer's license ~~in a manner other than the one~~
 23 ~~permitted above on a vehicle other than one authorized by~~
 24 ~~this section,~~ IN A MANNER OTHER THAN THE ONE HEREIN
 25 AUTHORIZED or is not qualified as a dealer under the

1 requirements of this section, the registrar of motor
 2 vehicles may revoke such dealer's license. No person, firm,
 3 corporation or association shall, for commission or profit,
 4 engage in the business of buying, selling, exchanging or
 5 acting as a broker of new motor vehicles, trailers or
 6 semitrailers unless duly licensed in compliance with this
 7 section (except trailers having an unladen weight of less
 8 than five hundred (500) pounds).

9 Any person violating the provisions of this section
 10 shall be guilty of a misdemeanor and subject to a fine of
 11 not less than two hundred fifty dollars (\$250) and not more
 12 than five hundred dollars (\$500). For the purposes hereof,
 13 every sale of a motor vehicle in violation of the provisions
 14 of this section shall be deemed a separate offense."

-End-